

§ 35.17 Withdrawals and amendments of rate schedule, tariff or service agreement filings.

(a) *Withdrawals of rate schedule, tariff or service agreement filings prior to Commission action.* (1) A public utility may withdraw in its entirety a rate schedule, tariff or service agreement filing that has not become effective and upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission. Upon the filing of such motion, the proposed rate schedule, tariff or service agreement sections will not become effective under section 205(d) of the Federal Power Act in the absence of Commission action making the rate schedule, tariff or service agreement filing effective.

(2) The withdrawal motion will become effective, and the rate schedule, tariff or service agreement filing will be deemed withdrawn, at the end of 15 days from the date of filing of the withdrawal motion, if no answer in opposition to the withdrawal motion is filed within that period and if no order disallowing the withdrawal is issued within that period. If an answer in opposition is filed within the 15 day period, the withdrawal is not effective until an order accepting the withdrawal is issued.

(b) *Amendments or modifications to rate schedule, tariff or service agreement sections prior to Commission action on the filing.* A public utility may file to amend or modify, and may file a settlement that would amend or modify, a rate schedule, tariff or service agreement section contained in a rate schedule, tariff or service agreement filing that has not become effective and upon which no Commission or delegated order has yet been issued. Such filing will toll the notice period in section 205(d) of the Federal Power Act for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than 61 days from the date of the filing of the amendment or modification.

(c) *Withdrawal of suspended rate schedules, tariffs, or service agreements, or parts thereof.* Where a rate schedule, tariff, or service agreement, or part thereof has been suspended by the

Commission, it may be withdrawn during the period of suspension only by special permission of the Commission granted upon application therefor and for good cause shown. If permitted to be withdrawn, any such rate schedule, tariff, or service agreement may be refiled with the Commission within a one-year period thereafter only with special permission of the Commission for good cause shown.

(d) *Changes in suspended rate schedules, tariffs, or service agreements, or parts thereof.* A public utility may not, within the period of suspension, file any change in a rate schedule, tariff, or service agreement, or part thereof, which has been suspended by order of the Commission except by special permission of the Commission granted upon application therefor and for good cause shown.

(e) *Changes in rate schedules or tariffs or parts thereof continued in effect and which were proposed to be changed by the suspended filing.* A public utility may not, within the period of suspension, file any change in a rate schedule or tariff or part thereof continued in effect by operation of an order of suspension and which was proposed to be changed by the suspended filing, except by special permission of the Commission granted upon application therefor and for good cause shown.

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 714, 73 FR 57533, Oct. 3, 2008; 74 FR 55770, Oct. 29, 2009]

§ 35.18 Asset retirement obligations.

(a) A public utility that files a rate schedule, tariff or service agreement under § 35.12 or § 35.13 and has recorded an asset retirement obligation on its books must provide a schedule, as part of the supporting work papers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as electric plant and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base

calculation through a single adjustment.

(b) A public utility seeking to recover nonrate base costs related to asset retirement costs in rates must provide, with its filing under § 35.12 or § 35.13, a detailed study supporting the amounts proposed to be collected in rates.

(c) A public utility that has recorded asset retirement obligations on its books, but is not seeking recovery of the asset retirement costs in rates, must remove all asset-retirement-obligations-related cost components from the cost of service supporting its proposed rates.

[Order 631, 68 FR 19619, Apr. 21, 2003, as amended by Order 714, 73 FR 57533, Oct. 3, 2008]

§ 35.19 Submission of information by reference.

If all or any portion of the information called for in this part has already been submitted to the Commission, substantially in the form prescribed above, specific reference thereto may be made in lieu of re-submission in response to the requirements of this part.

§ 35.19a Refund requirements under suspension orders.

(a) *Refunds.* (1) The public utility whose proposed increased rates or charges were suspended shall refund at such time in such amounts and in such manner as required by final order of the Commission the portion of any increased rates or charges found by the Commission in that suspension proceeding not to be justified, together with interest as required in paragraph (a)(2) of this section.

(2) Interest shall be computed from the date of collection until the date refunds are made as follows:

(i) At a rate of seven percent simple interest per annum on all excessive rates or charges held prior to October 10, 1974;

(ii) At a rate of nine percent simple interest per annum on all excessive rates or charges held between October 10, 1974, and September 30, 1979; and

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or

charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release H. 15), for the fourth, third, and second months preceding the first month of the calendar quarter.

(B) The interest required to be paid under clause (iii)(A) shall be compounded quarterly.

(3) Any public utility required to make refunds pursuant to this section shall bear all costs of such refunding.

(b) *Reports.* Any public utility whose proposed increased rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 205(e) of the Federal Power Act shall keep accurate account of all amounts received under the increased rates or charges which became effective after the suspension period, for each billing period, specifying by whom and in whose behalf such amounts are paid.

[44 FR 53503, Sept. 14, 1979, as amended at 45 FR 3889, Jan. 21, 1980; Order 545, 57 FR 53990, Nov. 16, 1992; 74 FR 54463, Oct. 22, 2009]

§ 35.21 Applicability to licensees and others subject to section 19 or 20 of the Federal Power Act.

Upon further order of this Commission issued upon its own motion or upon complaint or request by any person or State within the meaning of sections 19 or 20 of the Federal Power Act, the provisions of §§ 35.1 through 35.19 shall be operative as to any licensee or others who are subject to this Commission's jurisdiction in respect to services and the rates and charges of payment therefor by reason of the requirements of sections 19 or 20 of the Federal Power Act. The requirement of this section for compliance with the provisions of §§ 35.1 through 35.19 shall be in addition to and independent of any obligation for compliance with those regulations by reason of the provisions of sections 205 and 206 of the Federal Power Act. For purposes of applying this section *Electric Service* as otherwise defined in § 35.2(a) shall